

REMARKS

In the instant Office Action mailed March 29, 2005, Applicant's response filed December 10, 2004 was deemed not fully responsive to the prior Office Action mailed July 21, 2004. The Examiner alleges that "newly submitted claims 16-30 are directed to an invention that is independent or distinct from the invention originally claimed" because "the claims originally presented were directed to compositions comprising ginkgolide B and that no method of use claims were submitted for examination." The Examiner notes that

"since the applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 16-30 are withdrawn from consideration as being directed to a non-elected invention."

As such, claims 12-15 remain pending in the application.

The Applicant is grateful for the April 14, 2005 teleconference which the Examiner granted to Applicant's representatives, Attorney Brian Morrill and the undersigned, for the discussion of the Office Action mailed July 21, 2004 (referred to hereinafter as the "July Office Action") and the Office Action mailed March 29, 2005 (referred to hereinafter as the "March Office Action") which issued in U.S. Application Serial No. 09/879,306 (referred to hereinafter as the "Instant Application"). The Applicant is also grateful for the Examiner's preparation of the Interview Summary.

The following points were raised in the March Office Action and the July Office Action and were discussed during said teleconference. The Examiner noted that claims 16-30 were not entered into the application and that claims 12-15 remained pending. The Examiner was of the opinion that the cited reference, U.S. Patent 5,002,965 to Ramwell *et al.* (referred to hereinafter as "Ramwell"), anticipated the pending claims 12-15 of the Instant Application because a 2-10 mg dose range is disclosed by Ramwell and Applicant's disclosure cited a composition with a dosage of 2 mg. The Examiner was of the opinion that, as the disclosed dosages overlapped, the composition claimed in claims 12-15 of the Instant Application could not be considered new. The Examiner

encouraged the Applicant to file a continuation application with claim drawn to methods of use rather than to pharmaceutical compositions.

In response to these allegations, Applicant's representatives directed the Examiner to pending claims 12-15, pointing out that not only the preamble but also the body of claim 12 recited that the composition comprises an "effective amount" of a ginkgolide and that "effective amount" is a distinguishing factor for compositions formulated for a particular use. Applicant's representatives also noted that the exemplified dosage for the tissue perfusate of Ramwell was 10 mg/kg (see Ramwell at Example 1 beginning at column 5 line 33 and continuing through column 7 line 5) while Applicant's example of an effective amount was 2 mg/kg (see the example provided in the specification beginning at page 10 line 32 and continuing to page 12 line 5).

No specific conclusion was reached as to amendments which would put pending composition claims 12-15 of the Instant Application in a condition for allowance, however, it was agreed that a continuation application directed to method of use claims would be more favorably considered.

Accordingly, concurrently with this Reply, Applicant is filing a continuing application having appropriate method claims.

Respectfully submitted,

Date:

5/17/05

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